



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office

Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
06/898,674	08/21/86	AMIN	11-2-82

JOHN T. REYNOLDS
PATENT LAW DEPT.,
THE UP-JOHN COMPANY
KALAMAZOO, MI 49001

TEOLT, W EXAMINER	
ART UNIT	PAPER NUMBER
8	

DATE MAILED: 03/16/88

This is a communication from the examiner in charge of your application.

COMMISSIONER OF PATENTS AND TRADEMARKS

This application has been examined Responsive to communication filed on 11-2-82 This action is made final.

A shortened statutory period for response to this action is set to expire 3 month(s), - days from the date of this letter.
Failure to respond within the period for response will cause the application to become abandoned. 35 U.S.C. 133

Part I THE FOLLOWING ATTACHMENT(S) ARE PART OF THIS ACTION:

1. Notice of References Cited by Examiner, PTO-892. 2. Notice re Patent Drawing, PTO-948.
3. Notice of Art Cited by Applicant, PTO-1449 4. Notice of Informal Patent Application, Form PTO-152
5. Information on How to Effect Drawing Changes, PTO-1474 6.

Part II SUMMARY OF ACTION

1. Claims 1-3 and 5-14 are pending in the application.

Of the above, claims 5-7 and 12 are withdrawn from consideration.

2. Claims _____ have been cancelled.

3. Claims _____ are allowed.

4. Claims 1 are rejected.

5. Claims 2-3 and 5-14 are objected to.

6. Claims _____ are subject to restriction or election requirement.

7. This application has been filed with informal drawings which are acceptable for examination purposes until such time as allowable subject matter is indicated.

8. Allowable subject matter having been indicated, formal drawings are required in response to this Office action.

9. The corrected or substitute drawings have been received on _____. These drawings are acceptable; not acceptable (see explanation).

10. The proposed drawing correction and/or the proposed additional or substitute sheet(s) of drawings, filed on _____ has (have) been approved by the examiner. disapproved by the examiner (see explanation).

11. The proposed drawing correction, filed _____, has been approved. disapproved (see explanation). However, the Patent and Trademark Office no longer makes drawing changes. It is now applicant's responsibility to ensure that the drawings are corrected. Corrections **MUST** be effected in accordance with the instructions set forth on the attached letter "INFORMATION ON HOW TO EFFECT DRAWING CHANGES", PTO-1474.

12. Acknowledgment is made of the claim for priority under 35 U.S.C. 119. The certified copy has been received not been received

been filed in parent application, serial no. _____; filed on _____.

13. Since this application appears to be in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11; 453 O.G. 213.

14. Other

Applicant's election with traverse of group I in Paper No. 7 is acknowledged. The traversal is on the grounds(s) that examining both inventions would not place an undue burden on the Patent Office. This has not been found persuasive because the inventions raise separate issues of patentability, each requiring a separate literature search. To examine both inventions in an application would place an undue burden on the Patent Office.

The requirement is still deemed to be proper and is therefore made FINAL.

The text of those sections of Title 35, U. S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 8-11 and 13-14 remain rejected under 35 U.S.C. 103 as being unpatentable over Labeeuw, et al.

The declarations under 37 CFR 1.132 filed 11/2/87 are insufficient to overcome the rejection of the above claims based upon the Labeeuw patent as set forth in the last Office action because they fail to comply with 37 CFR 1.68. No reference to 18 U.S.C. 1001 is seen. Moreover, the evidence is not commensurate in scope with the generic claim since it embraces both crystalline and non-crystalline salts. The declarations appear to be directed only to the properties of crystalline salts.

Applicants are requested to state the pertinence of U.S. patent 4,166,155 to Mao et al. which was cited in the prior art statement filed 12/12/86.

Serial No. 898,676

-3-

Art Unit 122

This application contains claims 5-7 and 12 drawn to an invention non-elected with traverse in Paper No. 7. A complete response to the final rejection must include cancellation of non-elected claims or other appropriate action (37 CFR 1.144) MPEP 821.01.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). The practice of automatically extending the shortened statutory period an additional month upon the filing of a timely first response to a final rejection has been discontinued by the Office. See 1021 TMOG 35.

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 CFR 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Any inquiry concerning this communication should be directed to Mr. Teoli at telephone number 703-557-3981.

WAT
TEOLI/fm

2/19/88



Donald G. Davis
Advisory Patent Examiner
Art Unit 122